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## SUPERINTENDENT OF PUBLIC INSTRUCTION

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*Chris Reykdal* Old Capitol Building · PO BOX 47200 · Olympia, WA 98504-7200 · <http://www.k12.wa.us>

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RE: Teresa Butler  
OSPI Case Number: D16-03-018 & D16-08-053  
Document: Final Order of Suspension

Regarding your request for information about the above-named educator; attached is a true and correct copy of the document on file with the State of Washington, Office of Superintendent of Public Instruction, Office of Professional Practices. These records are considered certified by the Office of Superintendent of Public Instruction.

Certain information may have been redacted pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **None**

If you have any questions or need additional information regarding the information that was redacted, if any, please contact:

OSPI Public Records Office  
P.O. Box 47200  
Olympia, WA 98504-7200  
Phone: (360) 725-6372  
Email: [PublicRecordsRequest@k12.wa.us](mailto:PublicRecordsRequest@k12.wa.us)

You may appeal the decision to withhold or redact any information by writing to the Superintendent of Public Instruction, OSPI P.O. Box 47200, Olympia, WA 98504-7200.



# SUPERINTENDENT OF PUBLIC INSTRUCTION

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IN THE MATTER OF THE EDUCATION	)	
CERTIFICATE OF	)	OPP No. D16-03-018
	)	& D16-08-053
	)	
TERESA BUTLER	)	AGREED ORDER
Certificate No. 260866R	)	OF SUSPENSION
_____	)	

After receiving and investigating a complaint from Tacoma Public Schools (“School District”) regarding the above referenced educator, and based upon the facts available as of the date of this Agreed Order, the Superintendent of Public Instruction, through his undersigned designee, does hereby stipulate, by and between the Office of Superintendent of Public Instruction, the Office of Professional Practices, and TERESA BUTLER (“the Educator”), that the Washington Education Certificate No. 260866R, shall be suspended for not less than three (3) months with conditions enumerated below, based on the following Findings of Fact and Conclusions of Law:

## I. FINDINGS OF FACT

1. On July 1, 1984, the Educator was issued Teacher Certificate No. 260866R. The Educator’s certificate will expire on June 30, 2023.
2. The Educator taught in the Peninsula School District prior to being hired by Tacoma Public Schools as a fourth grade teacher for the 2014–2015 school year.
3. During the 2015–2016 school year, the Educator took another position within the School District as the peer inclusion preschool teacher at Franklin Elementary School.
4. The Educator has had no previous disciplinary action during her 31 years as a public school teacher, either through the Office of Professional Practices (“OPP”) or any employer.

*Complaint D16-03-018 Received February 29, 2016*

5. On or about February 29, 2016, OPP, which is within the Office of Superintendent of Public Instruction (“OSPI”), received a complaint letter from Carla J. Santorno, the Superintendent of the School District, alleging the Educator may have committed acts of unprofessional conduct.

6. During the 2015–2016 school year, Student A was enrolled in the peer inclusion preschool class at Franklin Elementary School. During this time frame, Student A had several medical alerts, including life-threatening asthma and life-threatening food allergies. One of Student A’s allergies included peanuts.

7. On or about December 1, 2015, the Educator escorted her class outside to the playground. She told her class that once everyone was lined up outside, she had a treat for them. The Educator had homemade peanut butter oatmeal cookies that she received from one of the parents of one of her students. The Educator broke each cookie in half and handed half a cookie to each student, including Student A. Student A took the cookie and without taking a bite, handed it back to the Educator.

8. The class returned to the classroom and sat down for instruction. Student A sat at the circle then laid down briefly before cuddling next to the Educator. Ms. Stephanie Brester, a para-educator that worked with Student A the previous year became concerned that Student A’s subdued behavior might possibly be related to low oxygen levels.

9. Student A was escorted to the nurse’s office and the Educator called Student A’s mother.

10. Anne Hopper was the nurse on duty when Student A arrived. Ms. Hopper was the assistant nurse, para LPN. Ms. Hopper administered four puffs of albuterol through a mask, as directed by the Asthma Emergency Health Care Plan to Student A. Ms. Hopper called Student A’s mother to inform her that Student A was having difficulty breathing and called emergency response.

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11. Emergency transport and Student A's mother arrived at the school. Student A was transported to the emergency room by ambulance. While in the ambulance, Student A's condition became increasingly worse and she lost consciousness.

12. When Student A arrived at the emergency room, she was met with a team of doctors, nurses, and respiratory therapists. One of the doctors recognized that Student A was having an anaphylactic reaction and ordered that Student A be given epinephrine and Benadryl, immediately.

13. Student A was transferred to the Intensive Care Unit. Student A spent one night in the hospital and was released the next day.

14. The School District conducted an investigation into the incident of December 1, 2015.

15. On or about February 12, 2016, the School District sent the Educator a probable cause letter. The School District determined "that there is probable cause to issue a twenty (20) day suspension without pay to [the Educator] as a disciplinary consequence for [the Educator's] actions." Mitigating circumstances notwithstanding, no other district personnel were disciplined.

16. On or about February 17, 2016, the Educator sent the school district a written request for a closed hearing to dispute the suspension.

17. The Educator went on medical leave on May 17, 2016.

***Complaint D16-08-053 Received February 29, 2016***

18. On or about August 22, 2016, OPP received another complaint letter from Superintendent Santorno alleging the Educator may have committed acts of unprofessional conduct.

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19. On July 24, 2015, an amendment to RCW 28A.155.020 and 28A.600.485 relating to restraint or isolation of students, including students with disabilities in public schools went into effect. The amendment added an additional section which states, in part:

“The legislature finds that there is no educational or therapeutic benefit to children from physically restraining or isolating them as part of their public school programs when not necessary for immediate safety. The use of seclusion or restraints in nonemergency situations poses significant physical and psychological danger to students and school staff. The legislature declares that is the policy of the state of Washington to prohibit the planned use of aversive interventions, to promote positive interventions when a student with disabilities is determined to need specially designed instruction to address behavior, and to prohibit schools from physically restraining or isolating any student except when the student’s behavior poses an imminent likelihood of serious harm to that student or another person.”

20. The Educator was aware of the new regulations regarding restraint. She stated in an interview on December 6, 2016, that she received emails about the new standards and new regulations regarding restraint, but she stated she was not aware that the use of Rifton chairs for instructional purposes was considered a restraint. Because the Rifton chair was readily available for use, the Educator was unaware of a need for prescriptions for their use.

21. Student B was a three (3) year old student who was first assessed on February 5, 2016, for his initial IEP, and he qualified for special education services.

22. On or about February 8, 2016, was Student B’s first day of school in the Educator’s classroom.

23. Within sometime between one to two weeks and one month to six weeks, the Educator began using a Rifton chair during instructional time as an inclusive measure for Student B. In the Educator’s class, the Rifton chair was not used as a punishment or a “time-out”, but to keep Student B engaged in short periods of group instruction. The Educator used the Rifton chair as a therapeutic tool to assist Student B to participate in classroom activities.

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24. After the Educator went on medical leave, Ms. Mary Rawlings became the emergency substitute teacher for the peer inclusion preschool class. Ms. Rawlings relied on the para-educators to assist her with the structure of the classroom daily activities. Ms. Rawlings observed the para-educators placing Student B in the Rifton chair for instructional time, and she did not question it.

25. On or about June 13, 2016, approximately one month after the Educator went on medical leave, Student B's father arrived at the peer inclusion preschool classroom to drop off cupcakes for a classroom celebration for Student B.

26. Student B's father saw his son strapped into a Rifton chair and he recorded video footage on his phone to send to his wife. Student B's father expressed concern that his son was being strapped into a chair intended for another student.

27. The video depicted Student B unsupervised in the Rifton chair. The Educator states that she never left Student B unsupervised, and what she observed was a misuse of the chair.

28. The Educator communicated with Student B's mother regarding the video, and the Educator attempted to contact the principal to inform her about the situation and request training for the substitute teacher.

29. On or about July 13, 2016, Student B's father submitted a Special Education Citizen Complaint to OSPI, alleging that the School District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education. The complaint specifically excludes the Educator by name stating, "With the exception of [the Educator], would like to no longer see same aides or subs in classroom next year."

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30. As a result of the Special Education Department's investigation, "OSPI strongly recommends that for each building, the District survey and catalog the Rifton chairs and other therapeutic or safety devices, which have the potential to be used as a restraining device, and monitor whether the presence of these devices corresponds with a student who has prescribed use. If a classroom or hallway contains a device that has the potential to be used as a restraining device, and staff cannot identify a student who has a prescribed use for that device, OSPI recommends that the District remove the device from the classroom or hallway premises."

31. On or about August 17, 2016, the Educator and the School District entered into a Separation Agreement and Release. The Educator agreed to withdraw her request for a hearing, and voluntarily resigned from the School District effective November 30, 2016. The School District agreed to end any ongoing investigations of allegations of misconduct raised against the Educator and also agreed not to pursue any further disciplinary action regarding any allegation that could have been made prior to the date of the agreement.

## II. CONCLUSIONS OF LAW

1. Chapter 28A.410 RCW gives the Professional Educator Standards Board the authority to develop regulations determining eligibility for and certification of personnel employed in the common schools of the state of Washington. OSPI acts as the administrator of those statutes and regulations and has the authority to issue, reprimand, suspend, and revoke education certificates. RCW 28A.410.090, RCW 28A.410.010, and WAC 181-86 and WAC 181-87 further implement OPSI's authority.
2. OSPI has jurisdiction over the Educator and the subject matter of this action.

3. The Educator committed acts of unprofessional conduct pursuant to WAC 181-87-060(1) when she inadvertently gave a known allergen to a student, and also when she improperly utilized a restraint on a student.

4. There is clear and convincing evidence that the Educator committed acts of unprofessional conduct pursuant to WAC 181-86-170.

5. Pursuant to WAC 181-86-080, eleven factors, at a minimum, are to be considered to determine the appropriate level and range of educator discipline:

- (1) The seriousness of the act(s) and the actual or potential harm to persons or property;
- (2) The person's criminal history including the seriousness and amount of activity;
- (3) The age and maturity level of participant(s) at the time of the activity;
- (4) The proximity or remoteness of time in which the acts occurred;
- (5) Any activity that demonstrates a disregard for health, safety or welfare;
- (6) Any activity that demonstrates a behavioral problem;
- (7) Any activity that demonstrates a lack of fitness;
- (8) Any information submitted regarding discipline imposed by any governmental or private entity as a result of acts or omissions;
- (9) Any information submitted that demonstrates aggravating or mitigating circumstances;
- (10) Any information submitted to support character and fitness; and
- (11) Any other relevant information submitted.

6. Based on the foregoing facts and considering them in light of the eleven factors enumerated in WAC 181-86-080, and in light of WAC 181-86-070, and WAC 181-87-060(1), the Educator's education certificate should be suspended for unprofessional conduct.

### III. ORDER

THEREFORE, it is hereby ordered that the Washington Education Certificate, No. 260866R of TERESA BUTLER is **SUSPENDED**. The Educator may not reapply for her education certificate for at least three (3) months from August 15, 2018, the effective date of this ORDER.

**REINSTATEMENT** of Teresa Butler's education certificate shall require:

- (1) In addition to any mandatory continuing education, the Educator must successfully complete an in-person APPROPRIATE RESTRAINTS / BEHAVIOR INTERVENTION course, preapproved by OSPI. The Educator will provide OSPI proof of completion of the course prior to requesting reinstatement;
- (2) The Educator must successfully complete an in-person CLASSROOM MANAGEMENT course, preapproved by OSPI. The Educator will provide proof of completion of the course prior to requesting reinstatement;
- (3) The Educator must submit a new application, including a Character and Fitness Supplement, provided by OPP;
- (4) The Educator must complete a fingerprint-based criminal background check through both the Federal Bureau of Investigation and the Washington State Patrol;
- (5) The Educator's fingerprint background check must return with no criminal convictions, occurring after the date of issuance of a Final Order of Suspension, that are listed in WAC 181-86-013, RCW 28A.410.090, or any felony convictions;
- (6) The Educator shall assume all costs of complying with the requirements of this Order.

DATED this 26<sup>th</sup> day of June, 2018.

CHRIS REYKDAL  
Superintendent of Public Instruction  
State of Washington

Stipulated to and approved  
for entry:

  
Dierk Meierbachtol  
Chief Legal Officer

  
Teresa Butler, Respondent

  
Joseph W. Evans, Attorney for Respondent  
WSBA # 29877